

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

| | | |
|----------------------------------|---|---------------------|
| ROSIE YOUNG, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| VS. |) | No. 07-2087 JPM-tmp |
| |) | |
| MICHAEL J. ASTRUE, |) | |
| Commissioner of Social Security, |) | |
| |) | |
| Defendant. |) | |

ORDER ADOPTING REPORT AND RECOMMENDATION;
ORDER DENYING MOTION TO DISMISS; and
ORDER DIRECTING CLERK TO ENTER SCHEDULING ORDER AFTER DEFENDANT
FILES AN ANSWER

Before the Court is the Report and Recommendation (DE # 11) of Magistrate Judge Tu M. Pham, submitted on January 15, 2008, recommending that Defendant's Motion to Dismiss (DE # 8) be denied. The Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety and DENIES Defendant's Motion to Dismiss.

In his Motion to Dismiss, Defendant argued that Plaintiff's Complaint should be dismissed because it was filed late. However, the Magistrate Judge found that the doctrine of equitable tolling applies under the facts of this case and that Plaintiff was reasonably diligent in pursuing her legal remedies under 42 U.S.C. § 405(g). See Bowen v. City of New York, 476 U.S. 467, 480 (1968); Cook v. Comm'r of Soc. Sec., 480 F.3d 432,

435 (6th Cir. 2007). The Magistrate Judge recommended that Defendant's Motion to Dismiss be denied.

No objections to the Report and Recommendation have been filed, and the time for filing objections has since expired. Upon de novo review of the Magistrate Judge's recommendation, the Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety and DENIES Defendant's Motion to Dismiss.

Defendant is ORDERED to file an Answer to Plaintiff's Complaint on or before Thursday, February 21, 2008. After Defendant files his Answer, the Clerk of Court is directed to enter an Order Setting Schedule in a Social Security Case, setting the briefing schedule for this case.

So ORDERED this 4th day of February, 2008.

/s/ JON P. McCALLA
UNITED STATES DISTRICT JUDGE